

June 2004 Unified Program Newsletter

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Administrative Enforcement Order Technical Advisory Group

On January 1, 2003, Unified Program Agencies (UPA) were authorized by Assembly Bill 2481 to use Administrative Enforcement Orders (AEOs) for the Business Plan, California Accidental Release Prevention and Underground Storage Tank programs. Previous authority existed to use AEOs for the Hazardous Waste and Tiered Permitting programs. In response to this new authority and in conjunction with the Unified Program Administration and Advisory Group (UPAAG) Enforcement Committee, an AEO Technical Advisory Group (TAG) was formed under the CUPA Forum with representatives from local, state and federal agencies. One of the goals of the AEO TAG is to compile data concerning UPA AEOs, AEO procedures/processes, AEO penalty matrices, and AEO local hearing processes. This data is being compiled as a tool to allow for more effective information sharing and will be made available to all UPAs.

We understand the workload demands everyone is under but feel it is important to ask you to contribute to this informational database to promote the concept of sharing information and consistency in the application of AEOs statewide. By doing so, our colleagues will be able to see the successful application of AEOs, ideas on how to apply AEOs and will have points of contact for further more detailed discussions. This information is being requested with concurrence from the CUPA Forum Board and is requested as displayed in the attached spreadsheets:

1. Information on AEOs issued since January 2003 that include:
 - Violation type (brief description)
 - Violation citation
 - Facility name and address
 - The name of the CUPA, a contact person and phone number
 - Final penalty settled
 - SEPS (Value and type)
2. Information on penalty matrices that includes
 - The name of the CUPA and the appropriate contact for those who have developed a penalty matrix and the programs elements covered.
3. Information on AEO procedures/processes that includes:
 - The name of the CUPA and the appropriate contact for those who have developed AEO procedures and the program elements covered.

4. Information on AEO local hearing processes that includes:
 - The name of the CUPA and the appropriate contact for those who have developed local hearing processes and the program elements covered.

Cal-EPA has agreed to compile all the information submitted and is sharing in the AEO TAG effort. Please submit this information via e-mail to dkaridis@calepa.ca.gov or to:

Dennis Karidis
California Environmental Protection Agency
Unified Program Section
1001 "I" Street, 2nd floor
Sacramento, California 95812

If you have any questions, please contact Dennis Karidis by telephone at (916) 327-9558 or by e-mail at dkaridis@calepa.ca.gov.

State Water Resources Control Board

Information on New Training Requirements

SWRCB has adopted changes to the UST regulations that will go into effect on May 8, 2004. The changes will amend sections 2611, 2630, 2635, 2636, 2636.1, 2637, 2641, 2643, and 2712, and add sections 2631.1, 2638, and 2715 in Title 23 of the California Code of Regulations (CCR). Changes include requirements for:

Certification of : 1) individuals who are responsible for certain activities at an UST facility (defined as "designated UST operators"), 2) individuals who conduct UST facility compliance inspections, 3) individuals who install UST systems or components, and 4) individuals who install, calibrate, test, and maintain monitoring equipment (defined as "service technicians"). For summary of existing and new training/certifications requirements, click [here](#)

Owners of UST systems to sign a written statement and submitted to the local agency stating that their facility is in compliance with all regulatory and statutory requirements, and identifying the facility's designated UST operator.

Monthly visual inspection and facility employee training performed by the Designated UST Operators.

Monitoring of all doubled-walled pressurized piping with automatic line leak detectors. An alternative to the 0.1 gallon per hour (gph) annual line test has also been provided. For summary of the monitoring options for doubled-walled pressurized piping, click [here](#).

Submittal of product compatibility and permeability information to the SWRCB or the local regulatory agency, upon request. This new requirement applies only: (1) to UST system components installed on or after July 1, 2004; and (2) if compatibility and permeability testing is required by the industry code or engineering standard used to evaluate the component.

Outreach Flyer for UST Owners/Operators

SWRCB has prepared an outreach flyer for UST owners/operators, that explains some of the key elements of the new UST Designated Operator requirements. The UST Issue Coordinators have reviewed the flyer and we have been notified that the CUPA Forum Board is on board with distribution of the flyer.

SWRCB would like to provide each local agency (LA) with copies of the flyer so that LAs can distribute the flyer to UST owners/operators within their jurisdiction. Distribution of the flyer by LAs benefits the regulated community because LAs have the most up-to-date information on the location and number of UST facilities within their jurisdictions. A copy of the flyer is available on SWRCB's website.

http://www.swrcb.ca.gov/ust/training/docs/Designated_UST_Operator_Flyer.pdf

If distribution of the flyer will create a hardship for your LA, please contact us regarding distribution of the flyer to UST owners/operators within your jurisdictions. Also, if your LA is interested in using the text of the flyer on your own letterhead, please contact us. If we do not hear back from you, we will assume you plan to inform UST owners/operators and will mail copies of the flyer to you.

Thank you for your help in educating the regulated community about the new Designated UST Operator requirement. If you have questions or need additional information, please contact Erin Ragazzi at (916) 341-5863 or ragazzie@swrcb.ca.gov.

Upcoming Requirement for Vacuum, Pressure, and Hydrostatic (VPH) Monitoring

The July 1, 2004 effective date for continuous vacuum, pressure, or hydrostatic (VPH) continuous monitoring of newly installed UST systems is fast approaching. Understandably, there has been a great deal of interest in the development and certification status of monitoring equipment that can satisfy this requirement. Fortunately, a number of manufacturers have been working diligently to have equipment approved and available. We wanted to take this opportunity to let you know that several monitoring systems are now approved as meeting SWRCB requirements. As listed on California's "List of Leak Detection Equipment and Methods for Underground Storage Tanks", LG-113, they are:

- Advanced Fuel Filtration Systems, Inc. (vacuum system for tanks and piping, for all fuel types)
- Containment Solutions, Inc. (hydrostatic system for fiberglass tanks, for all fuel types)
- SGB VLP (vacuum system for tanks and piping, for liquids with flashpoint above 55° C)
- SGB VLX (vacuum system for tanks, for all fuel types)
- SGB DLR-G (pressure system for piping, for all fuel types)
- Xerxes Corp. TruCheck (hydrostatic system for fiberglass tanks, for all fuel types)

LG-113 can be accessed on the SWRCB web page at http://www.swrcb.ca.gov/ust/leak_prevention/lg113/index.html. Leak detection equipment in LG-113 is listed alphabetically, by manufacturer. We anticipate that other equipment that also meets the requirements will be added to LG-113 in the near future. To view the latest additions to LG-113, simply click on the "LG-113 News" link in the menu bar on the right side of the LG-113 web page.

To provide the UST community with the opportunity to learn more about VPH continuous monitoring equipment and UST components developed for these new requirements, SWRCB UST Program staff will be hosting two "New UST Equipment Workshops" in June 2004. More than 20 monitoring equipment and UST component manufacturers, including many of the manufacturers mentioned previously in this e-mail, will have tables at the workshops to showcase their equipment. For more information on the workshops, please see the attached flyer or "UST Equipment Workshops" on "Hot Topics" on our website at <http://www.swrcb.ca.gov/ust/>

If you have any questions about this e-mail or the upcoming monitoring requirements, please contact Mr. Scott Bacon at (916) 341-5873 or bacons@swrcb.ca.gov.

Department of Toxic Substances Control

REA Training Workshops

REA Regulatory Update/SB 14 Training Workshops are scheduled from 9:30 am – 4:30 pm and will take place June 23 in Sacramento, June 29 in LA, and July 13 in Oakland. The morning session will cover REA Program changes, updates on rulemaking, and information on Universal and E-waste regulations. The afternoon will be devoted to training on developing good SB 14 Hazardous Waste Source Reduction Plans. The workshops are free to REAs and open to non-REAs for a nominal fee of \$15. Interested CUPAs and staff who are not REAs are welcome to attend. For additional information please see the flyer and pre-registration form on our website http://www.dtsc.ca.gov/REA/REA_SB14Workshop_Notice.pdf.

Metallic Discard Act

DTSC is collecting information on compliance with the Metallic Discard Act (Public Resources Code 42170-42172, 42175-42175.1 & Health and Safety Code 25211-25214). These statutes require that hazardous materials be removed from appliances and vehicles before they are crushed or shredded. Please contact Nancy Lancaster, Senior Hazardous Substances Scientist,

(916-255-3645, nlancast@dtsc.cs.gov, if you have any information regarding handlers (metal shredders, landfills, recyclers, appliance dealers) that may be in violation of these statutes.

Biennial Tiered Permit Release Report

Title 27, California Code of Regulations (T27CCR), sections 15290 (b) and (c)(ii) established requirements for a Unified Program Agency to submit the Biennial Tiered Permit Release Report (Report 5) on August 30 starting in 2000 to the Department of Toxic Substances Control (DTSC). These regulations were adopted under the authority of Health and Safety Code, section 25171.5 (a) (2) in order to meet the legislative reporting mandate. The Legislature in Senate Bill 1191, Statutes 2001 repealed DTSCs biennial reporting requirements. Therefore, repeal of T27 CCR sections 15290 (b) and (c)(ii) is necessary.

DTSC submitted a "non-substantive rulemaking" to the Office of Administrative Law to repeal T27 CCR sections 15290 (b) and (c) (ii). DTSC anticipates the rulemaking will be effective by July 2004, thus Unified Program Agencies will not be required to submit Report 5 to DTSC by August 30, 2004.

Office of Emergency Services

CalARP Program Notice

A CalARP Program notice has been drafted to inform you of the impending regulation changes concerning the CalARP program and the 5-year update requirements. Please see attached.

Enforcement

Wal-Mart to pay \$3.1 million penalty for Clean Water Act violation

Wednesday, May 12, 2004

WASHINGTON (AP) --

Wal-Mart Stores Inc., the nation's largest retailer, will pay a \$3.1 million fine to settle a Clean Water Act violation stemming from excessive storm water runoff from its construction sites, federal officials said Wednesday.

Wal-Mart also agreed in the settlement with the Environmental Protection Agency and Justice Department to improve runoff controls at the more than 200 sites each year where the company builds stores, including Sam's Club outlets.

"Storm water requirements have been in place for a long time," said Thomas Sansonetti, assistant attorney general for environment and national resources. "Developers like Wal-Mart must share responsibility with their construction contractors to ensure compliance."

Wal-Mart spokesman Gus Whitcomb said the Bentonville, Ark.-based company will make changes at its construction sites to ensure environmental compliance.

"We also believe that this agreement sets a new industry standard for developers and their contractors, who also make daily decisions which impact compliance," Whitcomb said.

Storm water runoff carries sediment and dirt into the nation's waterways, killing fish, destroying habitat and blocking light that spurs growth of beneficial plant life. The runoff also can contain pesticides, chemicals, solvents and other toxic substances.

The settlement, filed in U.S. District Court in Wilmington, Del., cites Wal-Mart violations at 24 construction sites in nine states and alleges the company failed to get required permits, did not institute a runoff control plan and failed to install controls to prevent discharges.

Wal-Mart will comply with these requirements under the agreement and will improve training and inspections of its construction sites. The settlement also requires frequent reporting to the EPA.

In addition, Wal-Mart agreed to spend \$250,000 to help protect sensitive wetlands or waterways in one state, not yet determined, among the nine involved in the settlement. The nine states are California, Colorado, Delaware, Michigan, New Jersey, South Dakota, Tennessee, Texas and Utah.

In 2001, Wal-Mart and several contractors reached a similar storm water settlement that included payment of a \$1 million penalty. EPA inspections of other sites arising from that case led to the latest violations.

Wal-Mart reported sales in the fiscal year ended Jan. 31 of more than \$256 billion, according to the company's Internet site. In the United States, Wal-Mart operates 2,981 stores and supercenters, 538 Sam's Club outlets and 67 Neighborhood Markets.

County files suit against hotel owners

By JAMES BURGER, Californian staff writer, e-mail: jburger@bakersfield.com

Owners of the Padre Hotel had unskilled workers rip asbestos from the walls and pipes of the downtown landmark and dump the hazardous stuff in the Bena Landfill, according to a lawsuit filed by the Kern County District Attorney's office. Deputy D.A. John Mitchell has filed the civil suit against Pacifica Enterprises of San Diego, claiming the company purposely and repeatedly violated state environmental laws in an attempt to save money on the Padre renovation.

The claim quotes an unnamed foreman on the job as saying, "They thought they could get away with it."

Mitchell said he wants to make sure Pacifica pays for the violations.

"People are tired of (companies) coming here and treating Kern County like a toilet," he said.

Pacifica spokesman Paul Holling said Monday that he had not heard of the lawsuit.

"I know that we have had numerous (asbestos) tests in the building," he said. Beyond that, he said, he couldn't comment until he investigated the situation.

Demolition on the Padre continued unabated Monday, and workers, many of who spoke limited English, said they had no idea what asbestos is.

Asbestos is a natural fiber that, when airborne, can be inhaled. It can cause cancer and lung disease in humans according to the Environmental Protection Agency.

Frank Achuff, who said he is one of three foremen working at the Padre Hotel, declined to answer questions about asbestos violations on Monday.

Philip Jay, legal counsel for the San Joaquin Valley Air Pollution Control District, said the case is particularly troublesome because of the location of the Padre in the busy heart of downtown Bakersfield.

"You've got workers walking around there without proper equipment. You've got the risk of it blowing out of buildings," he said. "It's downtown. You've got people going in and out."

The precautions needed to keep the hazardous asbestos fibers out of the air can vary, Jay said, from keeping the material wet to creating a plastic seal around the work site and wearing special suits to protect workers.

According to the district attorney's claim, Pacifica used untrained workers to do the demolition of the Padre in April 2003 -- exposing those workers to asbestos.

It also claims that Pacifica hired a company to illegally dispose of the asbestos in the Bena Landfill, a dump used by the public.

And it states that Pacifica did it all on purpose -- in an attempt to avoid the expense of hiring a qualified asbestos removal company that could do the job correctly.

Jay said Pacifica was cited multiple times for violating environmental laws.

The claim stated that the air pollution control district issued a notice of violation to Pacifica on June 3, 2003.

Then, in March 2004, an air district inspector noticed that more walls containing asbestos had been disturbed by workers, the claim document states. The district issued a second notice of violation on March 31.

Jay said it is rare for a company to ignore citations and violate laws a second time.

"I think they've been cited a few times," he said. Usually, "it's one of those situations where you cite them once and they clean up their act."

But not this time, he said.

"We think it's a pretty significant case," Jay said. "All general building contractors know about the laws. In this day and age there is no excuse for any licensed contractor not to know."

Mitchell said the only way to stop corporations from trying to buck environmental laws and save a few dollars is to make breaking the law more costly than following it.

So his complaint includes a long list of fines he's hoping a judge will impose on Pacifica Enterprises.

The list includes six separate charges -- ranging from \$2,500 a day to \$500,000 a day -- for each day the company allegedly violated the law.

"We're asking the judge to impose a sentence that will make it very clear that it's more cost effective to comply with the law," he said.

News Releases

News Release - May 10, 2004

\$4,000 Settlement Reached with Rho-Chem Corporation

<http://www.dtsc.ca.gov/NewsReleases/index.html>

News Release - May 4, 2004

\$175,000 Settlement Reached with Port of San Francisco

http://www.dtsc.ca.gov/HazardousWaste/Pier_92/NEWS_2004_T-18-04.pdf

News Release - May 3, 2004

DTSC Reaches Settlement with Alhambra Environmental Services

http://www.dtsc.ca.gov/HazardousWaste/Alhambra_Environmental/NEWS_2004_T-17-04.pdf

News Release - April 29, 2004

\$33,361 Settlement Reached with Advanced Cleanup Technologies Incorporated

http://www.dtsc.ca.gov/HazardousWaste/Advanced_Clean/NEWS_2004_T-16-04.pdf

The Unified Program Section is interested in your comments and suggestions regarding the newsletter. Please provide comments and suggestions to Anie Wilson at (916) 327-9559 or awilson@calepa.ca.gov.

[Cal/EPA Unified Program Home Page](#)



Terry Tamminen
Secretary for
Environmental
Protection

State Water Resources Control Board

Division of Water Quality
1001 I Street • Sacramento, California 95814 • (916) 341-5775
Mailing Address: P.O. Box 2231 • Sacramento, California • 95812
FAX (916) 341-5808 • <http://www.swrcb.ca.gov>



Arnold Schwarzenegger
Governor

NEW UST EQUIPMENT WORKSHOPS¹

**Come learn more about the
vacuum, pressure, and hydrostatic (VPH) continuous monitoring
requirement and enhanced leak detection (ELD) testing!
Come see vendor displays of new VPH equipment and ELD!**

Register Today!

Registration is highly recommended because space is limited. Register to guarantee your admittance, a nametag, and handouts. Registration is easy, and it is **FREE**. Go on-line to: www.cce.csus.edu/cts/ustequip/index.htm or call (800) 858-7743 and reserve your space today.

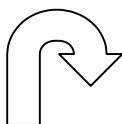
Workshop¹ Dates, Times, and Locations:

June 16, 2004 — Sacramento
10 A.M. - 2 P.M.

Red Lion Hotel, Sacramento
1401 Arden Way, Sacramento, CA 95815
Phone: (916) 922-8041 / (800) RED-LION
Parking is free!

June 17, 2004 — Orange County
10 A.M. - 2 P.M.

Doubletree Hotel, Anaheim/Orange County
100 The City Drive, Orange, CA 92868
Phone: (714) 634-4500 / (800) 222-TREE
Parking: Discounted rate of \$2.00



**For directions to either location, use Mapquest (www.mapquest.com) or
Yahoo Maps (www.yahoo.com).**

Check-in for the **NEW UST EQUIPMENT WORKSHOP¹** will begin at 9:30 A.M. and State Water Resources Control Board, Underground Storage Tank (UST) Program staff will present information on the new UST requirements from approximately 10:00 A.M. to 10:45 A.M. Following the presentations, the Vendor Showroom will be open for viewing until 2:00 P.M.

Vendor displays are available by invitation only. Vendors who would like to exhibit new UST equipment developed for the VPH continuous monitoring requirements, should contact Ms. Erin Ragazzi (E-mail: ragazzie@swrcb.ca.gov; Phone: 916-341-5863).

**For up-to-date information on these workshops, go on-line to:
www.cce.csus.edu/cts/ustequip/index.htm or www.swrcb.ca.gov/ust**

¹ This is a staff-level workshop only.





CalARP PROGRAM NOTICE

The Governor's Office of Emergency Services (OES) is revising the California Accidental Release Prevention (CalARP) Program regulations, Title 19, Chapter 4.5, to mirror the changes made to the Federal Chemical Accident Prevention Rule. The regulations will address changes made in the January 1, 1999, May 26, 1999, and April 9, 2004 Federal Registers. A fact sheet created by US EPA clarifying the changes made by the April 9, 2004 Federal Register is attached.

Critical Note: These changes are applicable to all CalARP Program stationary sources (facilities) that must submit a Risk Management Plan (RMP) to their local Administering Agency/CUPA.

OES has submitted an amendment to the CalARP program regulations to the Office of Administrative Law (OAL) for review and approval. The amended regulations, when approved, will require all existing CalARP facilities that have previously submitted a Risk Management Plan (RMP) to update their RMP as follows:

- 5-Year RMP Update: Most facilities submitted their initial RMP by the original June 21, 1999 deadline and have not resubmitted their RMP since. Therefore, the majority of facilities will need to fully update and resubmit their RMP by June 21, 2004.
- Facilities not currently required to file the 5-year RMP update must revise and submit their RMP registration to include all the data elements identified on Attachment A (see next page).

Changes to the CalARP Program regulations also include:

- Replacing Standard Industrial Classification (SIC) code with the North American Industry Classification System (NAICS);
- Establishing offsite consequence analysis criteria for both flammable liquids and flammable gases;
- Establishing the methodology for calculating quantities of Regulated Substances in a mixture; and
- The addition of RMP registration fields (many of them optional).

Facilities and local Administering Agencies should coordinate the implementation of these requirements pursuant to the CalARP Program regulations and statute.

If you have any questions regarding this notice or the CalARP Program contact your local Administering Agency/CUPA or the OES Hazardous Materials Unit at (916) 845-8741.

Attachment A

Risk Management Plan Registration Elements

(Note: New data requirements are underlined. Additional information must be revised during the 5-year RMP update.)

- (1) Stationary source name, street, city, county, state, zip code, latitude, and longitude, method for obtaining latitude and longitude, and description of location that latitude and longitude represent;
- (2) The stationary source Dun and Bradstreet number;
- (3) Name and Dun and Bradstreet number of the corporate parent company;
- (4) The name, telephone number, and mailing address of the owner or operator;
- (5) The name and title of the person or position with overall responsibility for RMP elements and implementation, and (optional) the e-mail address for that person or position;
- (6) The name, title, telephone number, and 24-hour telephone number, and, as of June 21, 2004, the e-mail address (if an e-mail address exists) of the emergency contact;
- (7) For each covered process, the name and CAS number of each regulated substance held above the threshold quantity in the process, the maximum quantity of each regulated substance or mixture in the process (in pounds) to two significant digits, the five- or six-digit NAICS code that most closely corresponds to the process, and the Program level of the process;
- (8) The stationary source USEPA identifier;
- (9) The number of full-time employees at the stationary source;
- (10) Whether the stationary source is subject to Section 5189 of Title 8 of CCR;
- (11) Whether the stationary source is subject to Part 355 of Title 40 of CFR;
- (12) If the stationary source has a CAA Title V operating permit, the permit number;
- (13) The date of the last safety inspection of the stationary source by a federal, state, or local government agency and the identity of the inspecting entity;
- (14) As of June 21, 2004, the name, the mailing address, and the telephone number of the contractor who prepared the RMP (if any);
- (15) Source or Parent Company E-Mail Address (Optional);
- (16) Source Homepage address (Optional);
- (17) Phone number at the source for public inquires (Optional);
- (18) Local Emergency Planning Committee (Optional);
- (19) OSHA Voluntary Protection Program status (Optional); and,
- (20) As of June 21, 2004, the type of and reason for any changes being made to a previously submitted RMP; the types of changes to RMP are categorized as follows:
 - (a) Updates and re-submissions required under Section 2745.10(a) or (b);
 - (b) Corrections under Section 2745.10.5 or for purposes of correcting minor clerical errors, updating administrative information, providing missing data elements or reflecting facility ownership changes, and which do not require an update and re-submission as specified in Section 2745.10(a) or (b);
 - (c) De-registrations required under Section 2745.10(c) or (d); and,
 - (d) Withdrawals of an RMP for any facility that was erroneously considered subject to the CalARP Program.



Changes to the Chemical Accident Prevention Rule (Risk Management Program) in 2004

The Environmental Protection Agency (EPA) recently published revisions to the reporting requirements of the Chemical Accident Prevention Rule under Clean Air Act section 112(r). Under the rule, covered facilities must submit risk management plans (RMPs) to EPA describing their chemical accident prevention programs. The revised rule removes the requirement for facilities to describe their offsite consequence analysis (OCA) in the executive summary of RMPs, adds several new data elements to RMPs, and requires more timely reporting of significant accidents and changes in emergency contact information. This *factsheet* provides a summary of these changes. It is important that owners, operators, plant managers, and others responsible for RMP implementation review this information.

BACKGROUND

Section 112(r) of the Clean Air Act (CAA) requires EPA to promulgate regulations for the prevention and mitigation of accidental releases of extremely hazardous substances. Under this section, EPA established a list of regulated substances and thresholds and issued the Chemical Accident Prevention regulations. The goals of this program are to prevent accidental releases of chemicals that could cause serious harm to human health or the environment and to reduce the severity of releases that may occur. Covered facilities are required to develop and implement a risk management program that includes a five-year accident history, an offsite consequence analysis, an accident prevention program, and an emergency response program. Companies must also submit to EPA a risk management plan (RMP) describing the source's risk management program. The original deadline for submitting RMPs was June 21, 1999. Since then, approximately 15,000 RMPs have been submitted.

The chemical accident prevention regulations also require full updates and resubmissions of RMPs at least once every five years. Certain process and

other changes as specified in the *Update* section of the Chemical Accident Prevention regulation (40 CFR 68.190) may require a facility to fully update and resubmit its RMP prior to the five-year anniversary of an RMP. The five-year anniversary date is reset whenever companies fully update and resubmit their RMPs.

Most facilities submitted their initial RMPs by the original June 21, 1999 deadline and have not resubmitted their RMPs since. Therefore, the majority of facilities will need to fully update and resubmit their RMPs to EPA by June 21, 2004.

All facilities are required to include the new data elements in their RMPs by June 21, 2004, whether they are filing an updated RMP by that date or not. Facilities filing a fully updated RMP by June 21, 2004 will be able to add the new information as part of their update. Facilities not filing a full update by that date will add the information to their RMPs through a correction.

This factsheet provides additional information about the reporting deadlines and the recent changes to the RMP reporting requirements.

OVERVIEW OF CHANGES TO RMP REPORTING

EPA recently amended the Chemical Accident Prevention rule to:

- (1) Require that information on reportable chemical accidents be added to the RMP within six months of the date of the accident;
- (2) Require that changes to emergency contact information be reported within one month;
- (3) Remove the requirement to include a brief description of the off-site consequence analysis (OCA) in the RMP executive summary; and
- (4) Add three RMP data elements.

EPA also amended the RMP*Submit format to expand the list of possible accident causes to include uncontrolled chemical reactions.

As part of this rulemaking, EPA also clarified that the five-year deadline for updating RMPs that were originally filed early (i.e., submitted *before* June 21, 1999), is June 21, 2004. Facilities that filed early may have received correspondence indicating an earlier due date. However, EPA's interpretation of the regulations is that RMPs initially due on June 21, 1999 must be updated by June 21, 2004, not before.

This clarification does not affect the five-year anniversary for facilities that updated their RMPs as a result of any process or other changes, as required under the *Updates* section of the regulation (40 CFR 68.190). For companies that submitted their initial RMPs *after* June 21, 1999, or have resubmitted since their initial submission, the five-year anniversary date is calculated as five years from the postmark date of their latest submission.

The following sections discuss the recent changes to RMP reporting in more detail.

More Timely Accident Reporting

Previously, facilities that had an accident meeting the criteria for inclusion in the five-year accident history section of their RMPs (section 6) could wait until they updated their RMPs to include information about that accident. Since RMPs may be updated as infrequently as every five years, EPA now requires facilities that have a reportable accident to revise section 6 of their RMPs to include information about the accident within six months of the accident's occurrence. Facilities reporting under Programs 2 and 3 must also revise the incident investigation information in their RMPs (reported as part of their Prevention Program

Information, section 7 or 8 of the RMP). Specifically, these facilities must revise: (1) the date of investigation (40 CFR 68.170(j)) to reflect the date of the investigation of the accident being included in the five-year history; and (2) the expected date of completion of any changes due to that accident investigation (40 CFR 68.175(l)), and submit a corrected RMP within six months of the date of the accident.

The criteria for determining which accidents must be included in the five-year accident history are found at 40 CFR 68.42. Guidance on the criteria and the reportable data elements for the five-year accident history are found in the *General Risk Management Program Guidance*, available on our website at: (<http://yosemite.epa.gov/oswer/ceppoweb.nsf/content/EPAGuidance.htm>).

Emergency Contact Information Corrections

In order to ensure that the emergency contact information is reasonably current, facilities are required to correct their RMPs to reflect any change in their emergency contact information within one month of the change.

Description of OCA No Longer Required in Executive Summary

Facilities subject to the Chemical Accident Prevention Rule are required to conduct an analysis of the potential off-site consequences of hypothetical worst-case and alternative accidental releases. Under the original rule, facilities were required to include a brief description of this analysis in the executive summary of their RMPs. EPA and federal law enforcement agencies have become concerned that OCA descriptions in executive summaries may pose a security risk, so EPA has revised the rule to remove this requirement. In view of security concerns, EPA expects that facilities will not include any OCA data in their executive summaries.

New Data Elements

In addition to those data elements already required in the RMP, facilities must now also include:

- The emergency contact e-mail address (if an e-mail address exists);
- The purpose and type of any submission that revises or otherwise affects previously filed RMPs; and
- The name, address, and telephone number of the contractor/consultant who prepared the RMP (if any).

RMP*Submit Format Revision for Recording Accident Causes

In RMP*Submit 2004, facilities will be able to indicate, as part of their five-year accident history, if an accident involved an uncontrolled or runaway reaction. This new option was added in response to renewed concerns over these types of incidents.

REPORTING DEADLINES

The five-year deadline for updating RMPs that were submitted before or on June 21, 1999, is June 21, 2004. Most facilities submitted their initial RMPs by the original June 21, 1999 deadline and have not resubmitted their RMPs since. Therefore, the majority of facilities will need to fully update and resubmit their RMPs to EPA by June 21, 2004. Facilities that have updated their RMPs as a result of any of the changes specified in 40 CFR 68.190 will have a different anniversary date.

All facilities are required to include the new data elements in their RMPs by June 21, 2004, whether they are filing an updated RMP by that date or not. For facilities filing an updated RMP (also referred to as a resubmission) by June 21, 2004, they will be able to add the new information as part of their update. For resubmissions, facilities will continue to be required to submit their updated RMPs on diskettes/CDs with certification letters.

For facilities not filing a full update by that date, they will be able to add the new data elements to their RMPs using a new Internet-based tool that EPA is developing. This tool will allow facilities to make revisions and other small changes to the administrative sections of the RMP on-line, eliminating the need to mail diskettes and certification letters for such corrections. This tool will not allow corrections of the executive summary entry within the administrative sections of the RMP, or of any other data element outside the administrative sections of the RMP. For any needed changes to those sections, facilities will continue to be required to submit their corrections on diskettes/CDs with certification letters.

Companies should note that the rule revision removes the requirement to include a brief description of OCA in the executive summary. Effective as of April 9, 2004 OCA data is no longer required in the executive summary.

April 9, 2004 is also the start date for the new accident reporting requirement. Any reportable accident occurring on or after April 9, 2004 must be included in the five-year accident history section of the RMP within six months of the accident.

WHAT'S NEXT?

We anticipate that the new version of RMP*Submit (known as RMP*Submit 2004) will be released shortly. In addition, we expect that the internet-based tool for correcting the administrative sections of the RMPs on-line (known as RMP Web Registration Correction) will be available in May 2004.

For up-to-date information on the status of these and other products associated with the RMP program, visit our "What's New" page. We plan to update this information on the first of each month to reflect new developments and product status.

Visit our "What's Next" page:

<http://yosemite.epa.gov/oswer/ceppoweb.nsf/content/whatsnext.htm>

FOR MORE INFORMATION...

Home page: www.epa.gov/emergencies

RCRA, Superfund & EPCRA Call Center:

Phone: (800) 424-9346 or (703) 412-9810

TDD: (800) 553-7672 or (703) 412-3323

Monday - Friday
9:00 am - 5:00 pm Eastern Time
Closed Federal Holidays